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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,603	09/17/2001	Craig N. Eatough	3195-6715US	8272
24247 TRASK BRITT P.O. BOX 2550 SALT LAKE CITY, UT 84110	7590 01/03/2007		EXAMINER BHAT, NINA NMN	
			ART UNIT 1764	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE 3 MONTHS			MAIL DATE 01/03/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/954,603	<b>Applicant(s)</b> EATOUGH ET AL.	
	<b>Examiner</b> N. Bhat	<b>Art Unit</b> 1764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 32-78 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 32-78 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### DETAILED ACTION

1. Applicant's arguments and amendments of October 11, 2006 have been fully and carefully considered. Applicant's amendments overcome the 112, first paragraph rejections. Accordingly the rejection is withdrawn. Applicant's amendments and arguments are not persuasive with respect to rejection under obviousness over the combined teachings of Loebell (1,912,002), Webber et al. (4,352,720) and Nicaud et al. (6,043,289) for reasons of record in the office action of June 21, 2005 and the following:
2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 32-37, 40-46, 48-53, 55-57, 59-75 and 78 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Loebell in combination with Weber et al. for reason delineated in the office action of June 21, 2006.
5. Claims 38, 39, 47, 54, 76 and 77 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Loebell in view of Weber et al. further in view of Nicaud et al. for reasons delineated in the office action of June 21, 2006.
6. Applicant has amended the claims to recite that the quantities of low-grade non-coking coal fines and another type of carbonaceous fines is adjusted such that the

Art Unit: 1764

pyrolytic by products do not exceed of a quantity of pyrolytic by-products required to continuously maintain the method. This amendment does not define over the combined teachings of Loebell and Weber et al. The art does fairly teach and suggest a process wherein the amounts of coal fines are adjusted to provide a high-grade coke from low-grade material. The concede to feed back tar effluent by product products from the pyrolyzer combustible off gas effluent has been specifically taught in Weber et al. Loebell teaches that recycling products in the coal briquetting process is well known and to provide a high-grade coke from a low grade coke is well known and a very old process. Applicant's process is merely fine-tuning of a well-established process of making high-grade coke from low-grade material. The fact that there is adjustment between low grade non-coking coal fines and pyrolytic by products is an obvious adjustment is applicant obviously manipulating process conditions and reaction conditions and manipulating the reaction system such that process runs continuously which does not require inordinate amounts of experimentation but routine optimization which would have been obvious to one familiar in coke production and it is maintained that one familiar with coke production would be capable of adjusting the tar effluent produced by pyrolyzation of the mixture such that it would not exceed the quantity of tar which would be required for processing a subsequent mixture to be introduced into the pyrolyzer. Applicant has argued that "Weber actually teaches introducing mixtures in the pyrolyzer which produce excess tar and combustion off gas by products", while this statement may be true it does not preclude applicant's pyrolytic by products do not exceed a quantity of pyrolytic by products required to continuously maintain the method,

specifically, even if the tar is in excess it does not necessarily mean that the reaction would not continue or the method would be impaired. If one puts in excess reagent in a chemical reaction, the reaction will still take place, therefore the process would continue.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to N. Bhat whose telephone number is 571-272-1397. The examiner can normally be reached on Monday-Friday, 9:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Caldarola can be reached on 571-272-1444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1764

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



N. Bhat  
Primary Examiner  
Art Unit 1764